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10/807,929	03/24/2004	Lisa Renee Hayden	09808630-0001	5141

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EXAMINER

VALENTI, ANDREA M

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 08/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/807,929

Applicant(s)

HAYDEN, LISA RENEE

Examiner

Andrea M. Valenti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2005.  
2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 3-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 3-20 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

Claims 3, 11, 12, 18, and 19 are objected to because of the following informalities:

Claims 3, 11, and 18 are duplicate claims so two of these claims should be canceled.

Claims 12 and 19 are duplicate claims so one of these claims should be canceled.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20, 3, 4, 6, 7, 10, 11, 13, 14, 15, 12, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 986,875 to Tilghman in view of U.S. Patent No. 6,123,223 to Watkins.

Regarding Claims 20 and 17, Tilghman teaches a machine for vending floral arrangements including: a stack of generally circular carousels in plane view (Tilghman Fig. 1 #69 and page 1 line 27-28) each for supporting a plurality of floral arrangements (Tilghman page 1 line 35-37) in separate compartments; and a generally cylindrical

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exterior housing (Tilghman #17, 20, 11, 67) surrounding the carousels in a suitably sealed manner; Tilghman teaches the carousels are stacked together in a modular arrangement (Tilghman Fig. 1 #69, 60, 61); Tilghman teaches the generally cylindrical exterior housing comprising exteriors of stacked plurality of generally cylindrical modules, one or more carousels being circumscribed by a corresponding module (Tilghman Fig. 1 #35 represents one exterior housing cylindrical modular section and #30 represents another exterior modular cylindrical section that circumscribes one or more carousels).

Tilghman is silent on retrieval of a floral arrangement upon receipt of a payment through a viewing window and an access control mechanism and structure operative to control access to a compartment in response to receipt of payment for a floral arrangement. However, Watkins teaches that it is old and well-known to permit access to a refrigerated floral display unit upon receipt of a payment (Watkins abstract). It would have been obvious to one of ordinary skill in the art to modify the teachings of Tilghman with the teachings of Watkins at the time of the invention for the advantage of an efficient business venture to obtain revenue without having to pay a sales clerk or the rental of large retail space.

Regarding Claims 3, 11, and 18, Tilghman as modified teaches at least one carousel includes a rotary shelf (Tilghman page 1 line 42).

Regarding Claim 4, Tilghman as modified teaches least one rotary shelf is perforated (Tilghman Fig. 2 and Fig. 1 #70) to allow air to flow through the shelf.

Regarding Claim 6, Tilghman as modified inherently teaches the exterior housing substantially air-tight (Tilghman teaches that the exterior structure encloses the carousels and maintains an internal refrigeration system and is thus substantially air-tight via the glass panels and angle irons).

Regarding Claim 7, Tilghman as modified teaches the inside of the housing is refrigerated (Tilghman page 2 line 20).

Regarding Claims 10, Tilghman as modified teaches the carousels are stacked together in a modular arrangement (Tilghman Fig. 1 #69, 60, 61).

Regarding Claims 12 and 19, Tilghman as modified teaches at least one rotary shelf includes dividers (Tilghman #67) that allow removal of only one floral arrangement during a single vending operation, but is silent on the dividers being steel. However, Watkins teaches a floral vending machine with steel dividers (Watkins Col. 6 line 19-22). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Tilghman with the teachings of Watkins at the time of the invention since the modification is merely the selection of a known alternate material for intended use selected for the advantage of enhanced refrigeration capabilities between compartments as taught by Watkins.

Regarding Claim 13, Tilghman as modified teaches the machine has a front and back and includes *at least one* (Tilghman #30) viewing window associated with the carousel, each viewing window being arranged to permit viewing of only one floral arrangement; the at least one viewing window is positioned towards either one or both of the front or back of the machine (Tilghman Fig. 1 only shows one arrangement in the

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machine and thus inherently teaches viewing of only one floral arrangement through the window).

Regarding Claim 14 and 15, Tilghman as modified inherently teaches that light is provided at the four edges of a viewing window (Tilghman #30 will inherently have light if located outdoors, e.g. sunlight or if located in a building with artificial overhead lighting; the room lighting will inherently provide the light a the viewing window).

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 986,875 to Tilghman in view of U.S. Patent No. 6,123,223 to Watkins as applied to claim 20 above, and further in view of U.S. Patent No. 1,393,050 to Talley et al.

Regarding Claim 5, Tilghman as modified teaches an exterior housing further includes a dome mounted over the uppermost carousel (Tilghman #17 and the panels between elements #17). Tilghman teaches that the exterior housing is transparent (i.e. glass panels), but is silent on the dome being transparent. However, Talley et al teaches an entire transparent vending/display apparatus (Talley Fig. 1 #16). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Tilghman with the teachings of Talley to provided enhanced visability of the floral merchandise and to allow more light into the display to enhance the visual appearance of the merchandise to enhance consumer appeal.

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Claims 8 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 986,875 to Tilghman in view of U.S. Patent No. 6,123,223 to Watkins as applied to claim 20 above, and further in view of Japanese Patent JP 2002140773 to Ikejiri.

Regarding Claims 8 and 16, Tilghman as modified is silent on a sensor that is arranged to activate a sound reproduction device when a person is sensed near to the machine and a spotlight. However, Ikejiri teaches a sensor that is arranged to activate a sound reproduction device when a person is sensed near to the machine (Ikejiri English abstract element #1 and 3 Fig. 1) and a spotlight (Ikejiri #2). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Tilghman with the teachings of Ikejiri at the time of the invention to discourage burglary or vandalism as taught by Ikejiri.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 986,875 to Tilghman in view of U.S. Patent No. 6,123,223 to Watkins as applied to claim 20 above, and further in view of U.S. Patent No. 2,875,878 to Hoban.

Regarding Claim 9, Tilghman as modified teaches a machine for vending floral arrangements including: a stack of carousels (Tilghman Fig.1 #69) each supporting a plurality of floral arrangements (Tilghman page 1 line 35-37). Tilghman is silent on each of the plurality of floral arrangements supported on each carousel are vended at the same price. However, Hoban teaches a vending machine where the items on each carousel are vended at the same price (Hoban Col. 8 line 5). It would have been

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obvious to one of ordinary skill in the art to further modify the teachings of Tilghman with the teachings of Hoban at the time of the invention since the modification is an old and notoriously well-known means of grouping articles on display to help the consumer efficiently comparison shop between equivalently priced items to expedite the selection process. This modification is merely a known business/organizational measure.

### ***Response to Arguments***

Applicant's arguments filed 24 June 2005 have been fully considered but they are not persuasive.

Examiner recognizes applicant's attempt at claiming the modularity and interchangeable nature of the exterior housing; however, the current amended claim language does not patentably distinguish over the maintained rejection of Tilghman. It is the examiner's position that Tilghman does teach a modular cylindrical exterior housing for the carousel structure as described in the preceding paragraphs. The examiner suggests that applicant try to further distinguish the modularity of the structure. In other words, the examiner suggests that perhaps applicant should have language in the claim limitation that recites that **each** of the exterior modular housing units **must** contain at least one carousel and that the modular exterior housing units are **interchangeable** to different configurations to create different size machines. Examiner would also like to see the limitations of claim 5, i.e. **transparent dome**.

### ***Conclusion***



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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 571-272-6895. The examiner can normally be reached on 7:00am-5:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Andrea M. Valenti  
Patent Examiner  
Art Unit 3643

24 August 2005



Peter M. Poon  
Supervisory Patent Examiner  
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8/25/05